

***** PUBLIC DOCKET *****

**U.S. District Court
Southern District of Indiana (Terre Haute)
CIVIL DOCKET FOR CASE #: 2:22-cv-00471-JPH-MKK**

LEE v. BURCHAM et al
Assigned to: Judge James Patrick Hanlon
Referred to: Magistrate Judge M. Kendra Klump
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 10/24/2022
Jury Demand: Defendant
Nature of Suit: 555 Prisoner Petitions
- Prison Condition
Jurisdiction: Federal Question

Plaintiff

DAUSHAWN LEE

represented by **DAUSHAWN LEE**
244914
PENDLETON - CF
PENDLETON CORRECTIONAL
FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064
PRO SE

V.

Defendant

BURCHAM
Officer

represented by **Eric Ryan Shouse**
Lewis And Wilkins LLP
8777 Purdue Rd
Suite 104
Indianapolis, IN 46268
317-636-7460
Email: shouse@lewisandwilkins.com
ATTORNEY TO BE NOTICED

Defendant

M. SMITH
Sgt.

represented by **Eric Ryan Shouse**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

C. SIMMERMAN
Sgt.

represented by **Eric Ryan Shouse**
(See above for address)

ATTORNEY TO BE NOTICED

Defendant

MURRAY
Officer

represented by **Eric Ryan Shouse**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

FRANK VANIHEL

represented by **Eric Ryan Shouse**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/24/2022	<u>1</u>	COMPLAINT against BURCHAM, MURRAY, C. SIMMERMAN, M. SMITH, FRANK VANIHEL, filed by DAUSHAWN LEE. (No fee paid with this filing) (Attachments: # <u>1</u> Exhibits)(KAA) (Entered: 10/24/2022)
10/24/2022	<u>2</u>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff DAUSHAWN LEE. (Attachments: # <u>1</u> Exhibits)(KAA) (Entered: 10/24/2022)
10/24/2022	<u>3</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (KAA) (Entered: 10/24/2022)
10/25/2022	<u>4</u>	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. Copy to plaintiff by U.S. Mail. (MEH) (Entered: 10/25/2022)
11/01/2022	<u>5</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff is assessed an initial partial filing fee of Forty-Six Dollars and Fifty-Five Cents (\$46.55). The plaintiff shall have through November 28, 2022, in which to pay this sum to the clerk of the district court. Copy to plaintiff via US Mail. Signed by Judge James Patrick Hanlon on 11/1/2022. (KAA) (Entered: 11/01/2022)
11/09/2022	<u>6</u>	CONSENT to Prisoner E-Service by DAUSHAWN LEE located at WVCf. Pursuant to General Order 2013-1, documents submitted by DAUSHAWN LEE to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (KAA) (Entered: 11/09/2022)

11/18/2022	<u>7</u>	RECEIPT #2633 for filing fee in the amount of \$350.00, paid by DAUSHAWN LEE. (DRB) (Entered: 11/18/2022)
12/12/2022	<u>8</u>	Reassignment of Case to Magistrate Judge Mark J. Dinsmore. Magistrate Judge Doris L. Pryor is no longer assigned to this case. Please include the new case number (2:22-cv-00471-JPH-MJD), which includes the initials of the newly assigned judge, on all future filings in this matter. (CJD) (Entered: 12/12/2022)
01/06/2023	<u>9</u>	Reassignment of Case to Magistrate Judge M. Kendra Klump. Magistrate Judge Mark J. Dinsmore is no longer assigned to this case. Please include the new case number (2:22-cv-00471-JPH-MKK), which includes the initials of the newly assigned judge, on all future filings in this matter. (JD) (Entered: 01/06/2023)
01/09/2023	<u>10</u>	NOTICE of Change of Address for DAUSHAWN LEE. Currently located at Pendleton CF (Previously located at Wabash Valley CF) (Attachments: # <u>1</u> Envelope) (JDC) (Entered: 01/10/2023)
01/12/2023	<u>11</u>	NOTICE of Change of Address for DAUSHAWN LEE. DAUSHAWN LEE is no longer participating in E-Service. Currently located at Pendleton Correctional Facility. Previously located at Wabash Correctional Facility. (Attachments: # <u>1</u> Envelope) (JDC) (Entered: 01/13/2023)
01/13/2023	<u>12</u>	MOTION to Participate in E-filing and Notice of Change of Address. Currently located at Pendleton Correctional Facility, previously located at Wabash Correctional Facility, filed by Plaintiff DAUSHAWN LEE. (JDC) (Entered: 01/17/2023)
01/20/2023	<u>13</u>	CONSENT to Prisoner E-Service by DAUSHAWN LEE located at PENDLETON CF. Pursuant to General Order 2013-1, documents submitted by DAUSHAWN LEE to the court for filing will generate a Notice of Electronic Filing that will constitute official service upon registered users of CM/ECF. If any parties to the case are not registered CM/ECF users, the Clerk of the Court will mail the document via U.S. Postal Service on behalf of the inmate. NOTE: The E-Filing Program does not affect the obligation of other parties to serve copies of documents in accordance with the Federal Rules of Civil Procedure. (JDC) (Entered: 01/20/2023)
01/27/2023	<u>14</u>	ORDER granting <u>12</u> Motion to Participate in E-filing to the extent that Plaintiff's consent to prisoner e-service was docketed on January 20, 2023, dkt. <u>13</u> . Signed by Magistrate Judge M. Kendra Klump on 1/27/2023. (TPS) (Entered: 01/27/2023)
02/01/2023	<u>15</u>	Order Screening Complaint and Directing Further Proceedings - This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If Mr. Lee believes that additional claims were alleged in the complaint, but not identified by the Court, he

		shall have through February 17, 2023, in which to identify those claims. The clerk is directed to issue process to defendants Officer Burcham, Sgt. M. Smith, Sgt. C. Simmerman, Officer Murray, and Warden Frank Vanihel. The clerk is directed to serve the Indiana Department of Correction employees electronically. SEE ORDER. Signed by Judge James Patrick Hanlon on 2/1/2023.(KAA) (Entered: 02/01/2023)
02/01/2023	<u>16</u>	NOTICE of Lawsuit & Waiver Issued by Clerk upon: (1) Officer Burcham; (2) Sgt. M. Smith; (3) Sgt. C. Simmerman; (4) Officer Murray; and (5) Warden Frank Vanihel. (KAA) (Entered: 02/01/2023)
02/01/2023	<u>17</u>	Documents to be Sent via Electronic Notice - re <u>15</u> Order, <u>16</u> NOTICE of Lawsuit & Waiver Issued by Clerk, <u>1</u> Complaint Electronic Notice to IDOC. (KAA) (Entered: 02/01/2023)
02/06/2023	<u>18</u>	NOTICE of Appearance by Eric Ryan Shouse on behalf of Defendants BURCHAM, MURRAY, C. SIMMERMAN, M. SMITH, FRANK VANIHEL. (Shouse, Eric) (Entered: 02/06/2023)
02/06/2023	<u>19</u>	WAIVER OF SERVICE Returned Executed, filed by FRANK VANIHEL, M. SMITH, BURCHAM, C. SIMMERMAN, MURRAY. FRANK VANIHEL waiver sent on 2/1/2023; M. SMITH waiver sent on 2/1/2023; BURCHAM waiver sent on 2/1/2023; C. SIMMERMAN waiver sent on 2/1/2023; MURRAY waiver sent on 2/1/2023. (Shouse, Eric) (Entered: 02/06/2023)
03/27/2023	<u>20</u>	ANSWER to <u>1</u> Complaint <i>Affirmative Defenses and Demand for Jury Trial</i> , filed by BURCHAM, MURRAY, C. SIMMERMAN, M. SMITH, FRANK VANIHEL.(Shouse, Eric) (Entered: 03/27/2023)
03/28/2023	<u>21</u>	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION - This Order sets the schedule for how this action shall proceed. This case will be set for a Discovery Conference with the Magistrate Judge. No discovery requests are permitted before the Discovery Conference has been held. However, the Initial Disclosures (explained in Section I. A.) must be made before the Discovery Conference. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 10/30/2023. Discovery due by 9/28/2023. Signed by Magistrate Judge M. Kendra Klump on 3/28/2023.(JSR) (Entered: 03/29/2023)
03/28/2023	<u>23</u>	ORDER SETTING TELEPHONIC STATUS CONFERENCE - This case is set for a telephonic status conference on June 7, 2023 at 10:30 a.m. (Eastern), with Magistrate M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with

		the call-in information to be used to participate in the conference. The Court will contact staff at the Pendleton Correctional Facility by separate email with the call-in information to be used to connect Mr. Lee to the conference. Signed by Magistrate Judge M. Kendra Klump on 3/28/2023.(DWH) (Entered: 03/29/2023)
03/29/2023	22	ORDER to Make Inmate Available - via Telephone. Warden of PENDLETON - CF ordered to make DAUSHAWN LEE Available - via Telephone for court proceeding on 6/7/2023. Signed by Magistrate Judge M. Kendra Klump on 3/29/2023.(TPS) (Main Document 22 replaced on 3/30/2023) (BAS). (Entered: 03/29/2023)
06/05/2023		Due to a full lock down at Pendleton Correctional Facility, the Telephonic Status Conference set for June 7, 2023 is VACATED. Hearing will be reset by separate entry. ***TEXT ONLY ENTRY***. Signed by Magistrate Judge M. Kendra Klump on 6/5/2023.(BAS) (Entered: 06/05/2023)
06/27/2023	25	ORDER SETTING TELEPHONIC STATUS CONFERENCE - This case is set for a telephonic Status Conference on 7/7/2023 at 10:30 AM (Eastern Time) before Magistrate Judge M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at the Pendleton Correctional Facility by separate email with the call-in information to be used to connect Mr. Lee to the conference. Signed by Magistrate Judge M. Kendra Klump on 6/27/2023.(KAA) (Entered: 06/27/2023)
06/27/2023	26	ORDER to Make Inmate Available - via Telephone. Warden of Pendleton Correctional Facility ordered to make Daushawn Lee (244914) Available - via Telephone for court proceeding on 7/7/2023. The Court will contact Pendleton Correctional Facility staff by separate email with the information to be used to connect Mr. Lee to the conference. Signed by Magistrate Judge M. Kendra Klump on 6/27/2023.(KAA) (Entered: 06/27/2023)
06/28/2023	27	MOTION to Take Deposition from Plaintiff , filed by Defendants BURCHAM, MURRAY, C. SIMMERMAN, M. SMITH, FRANK VANIHEL. (Attachments: # 1 Text of Proposed Order Granting Leave to Depose Plaintiff)(Shouse, Eric) (Entered: 06/28/2023)
07/05/2023	29	ORDER granting 27 Motion to Take Deposition from Daushawn Lee - SEE ORDER. Signed by Magistrate Judge M. Kendra Klump on 7/5/2023. (JRB) (Entered: 07/06/2023)
07/07/2023	30	MINUTE ORDER for Telephonic Status Conference held before Magistrate Judge M. Kendra Klump on 7/7/2023. Telephonic Status Conference set for 9/18/2023 at 3:30 PM (Eastern Time) before Magistrate Judge M. Kendra Klump. See Minute Order for further information. Signed by Magistrate Judge M. Kendra Klump. (BAS) (Main Document 30 replaced on 7/7/2023)

		(BAS). (Entered: 07/07/2023)
07/19/2023	31	MOTION for Assistance with Recruiting Counsel, filed by Plaintiff DAUSHAWN LEE. (Attachments: # 1 Envelope)(TPS) (Entered: 07/21/2023)
07/28/2023	32	ORDER granting 31 Motion to Appoint Counsel to the extent that the Court will attempt to recruit counsel to represent Mr. Lee for settlement purposes only. Signed by Judge James Patrick Hanlon on 7/28/2023. (JRB) (Entered: 07/28/2023)

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